

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

GAURAVKUMAR MAHENDRAKUMAR PATEL CASE NO: 19-00265-5-SWH

DEBTOR

CHAPTER 7

**MOTION FOR PRODUCTION OF DOCUMENTS
PURSUANT TO BANKRUPTCY RULE 2004**

NOW COMES John C. Bircher III, Attorney for Chapter 7 Trustee Richard D. Sparkman, Trustee ("Trustee"), and hereby moves the Court, pursuant to Rules 2004 and 9016 of the Federal Rules of Bankruptcy Procedure, for an Order directing Mako Medical Laboratories, LLC ("Mako") to produce certain documents. In support of this Motion, the Trustee shows the Court as follows:

1. The above-captioned bankruptcy case is pending in the Eastern District of North Carolina.

2. The Debtor was a "Strategic Partner" in a pre-Petition Strategic Partnership Agreement ("Agreement") that identified Debtor as a non-exclusive strategic partner for Mako, assisting Mako in the marketing and sale of laboratory services.

3. The Agreement identifies the Debtor's duties and responsibilities, and further outlines a commission schedule for payment for Debtor's services.

4. The Agreement establishes the Debtor's right to receive commissions equal to 10% of collected reimbursements from third party payers, collected cash reimbursements, and collected contractual payments.

5. Federal Rule of Bankruptcy Procedure 2004 provides that the Court may order the examination of any entity on motion of any party-in-interest. Fed. R. Bankr. P. 2004(a). The examination may relate to acts, conduct, or property or to the liabilities and financial condition of the Debtor, or to any matter which may affect the administration of the Debtor's estate or to the Debtor's right to a discharge. The examination may also relate to any other matter relevant to the case or to the formulation of a plan. Fed. R. Bankr. P. 2004(b).

6. Federal Rule of Bankruptcy Procedure 9016 makes Rule 45 of the Federal Rules of Civil Procedure applicable to this bankruptcy case such that a Subpoena may be issued by the Court to require production of documents and to compel the attendance of witnesses to give testimony. Fed. R. Bankr. P. 9016.

7. The Trustee seeks the following production of documents from Mako:

a. Total billed to all third parties, including third party payers, including but not limited to Triangle Ortho and Blue Cross/Blue Shield from January 2017-present;

b. Total collected from all third-party payers, cash reimbursements and contractual payments; and,

c. Calculation of all commissions due and paid to Mr. Patel under the terms of the Agreement, by virtue of his assignment of interest from Laksme, LLC (collectively the "Documents").

8. Trustee requests that Mako produce for inspection the Documents to the undersigned counsel by 5:00 p.m. on March 15, 2021 at the law offices of Davis Hartman Wright, c/o John C. Bircher III, Attorney for Trustee, 209 Pollock Street, New Bern, North Carolina, 28560, or at such other date, time and place as the parties mutually may agree.

WHEREFORE, the Trustee respectfully moves the Court for an Order directing Mako to produce the Documents at the law offices of Davis Hartman Wright, 209 Pollock Street, New Bern, North Carolina, 28560 on or before 5:00 p.m. on March 15, 2021.

Dated: 02/19/2021

s/John C. Bircher III
John C. Bircher III
N.C. State Bar No. 24119
DAVIS HARTMAN WRIGHT, PLLC
209 Pollock Street
New Bern, NC 28560
Telephone: (252) 514-2828
Facsimile: (252) 514-9878
Email: jcb@dhwlegal.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing MOTION FOR PRODUCTION OF DOCUMENTS PURSUANT TO BANKRUPTCY RULE 2004 was filed electronically in accordance with the local rules and was therefore served electronically on those entities that have properly registered for such electronic service. Entities not registered for electronic service have been served by depositing a copy in the United States mail, bearing sufficient postage:

Mako Medical Laboratories, LLC
c/o Chad Price, CEO
8461 Garvey Drive
Raleigh, NC 27616-3176

Mako Medical Laboratories, LLC
c/o Joshua Arant
841 The Village Circle
Raleigh, NC 27615

Richard D. Sparkman
Trustee

(via CM/ECF)

Dated: 02/19/2021

s/John C. Bircher III
John C. Bircher III
N.C. State Bar No. 24119
DAVIS HARTMAN WRIGHT, PLLC
209 Pollock Street
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